

TITLE 16. BOARD OF CHIROPRACTIC EXAMINERS

Proposed Omnibus Consumer Protection Regulations

§303. Filing of Addresses.

~~(a) Each person holding a license to practice chiropractic in the State of California under any and all laws administered by the board shall file with the board his or her proper and current place of physical practice address of his principal office and, where appropriate, each and every sub-office satellite office, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change. If a licensee does not have a practice address, the licensee may file with the board his or her proper and current residence address. The address provided pursuant to this paragraph shall be public information unless the licensee also submits an alternate address pursuant to paragraph (b).~~

(b) In addition to the address filed pursuant to paragraph (a), a licensee may designate a post office box number or other alternate address as the address of record that shall be public information.

(c) Each licensee shall report to the board each and every change of address within 30 (thirty) days after each change, giving both the old and new addresses. The change of address shall be submitted in writing and mailed or faxed to the board at its office in Sacramento.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. 1xxxviii)) and Business and Professions Code Section 27.

Reference: Section 1000-10(a), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923 p. 1xxxviii)) and Section 136 of the Business and Professions Code.

§304. Discipline by Another State Jurisdiction.

~~The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.~~

(a) Any disciplinary action taken against a licensee by another licensing entity or authority of this state or of another state or an agency of the federal government or province thereof, or the United States Military or a foreign government or any other jurisdiction shall constitute unprofessional conduct.

(b) Disciplinary action is defined as any revocation, suspension, probation, or reprimand of a professional license.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10(a), of the Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Sections 1000-4(b) and 1000-10(a) of the (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Sections 141 and 480, Business and Professions Code.

§306.3. Investigators; Authority to Inspect Premises.

The board or its designee may inspect the physical premises of any chiropractic office during regular business hours. Failure by a licensee to allow such an inspection shall be considered as unprofessional conduct.

~~NOTE~~ote: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii). Reference: Sections 1000-4(b), 1000-4(e) and 1000-4(h), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii).

§308. Display of License.

(a) Each person holding a license shall prominently display a their current active license in the entry area or waiting area of their principal place of business ~~a conspicuous place in the licensee's principal office or primary place of practice.~~

(b) Any licensed ~~D~~doctor of ~~C~~chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed ~~D~~doctor of ~~C~~chiropractic must prominently display in a conspicuous place a current active Satellite Office Certificate in the entry area or waiting area of at the office for which it was issued at all times while treating, examining or evaluating patients at that location.

(d) Notwithstanding subdivisions (b) and (c), any licensed doctor of chiropractic who is practicing in a mobile setting, such as at a health fair, a sporting event, or a patient's home, shall not be required to obtain and display a satellite certificate. However, any licensee practicing in such a mobile setting must at all times carry a current and active pocket license and shall make their pocket license available for inspection to a representative of the Board or any member of the public immediately upon request.

(e) No licensed ~~D~~doctor of ~~C~~chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

NOTE: Authority cited: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 104 of the Business and Professions Code.

Reference: Sections 1000-5, 1000-7 and 1000-12, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 104, Business and Professions Code.

§ 312. ~~Illegal Practice~~ Supervision of Unlicensed Individuals.

~~Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment. An “unlicensed individual” is defined as any person, including a student or graduate of a chiropractic institution, who does not hold a valid California chiropractic license. An exemption is hereby created for student doctors participating in board approved preceptorship programs.~~

The licensed doctor of chiropractic shall initially examine and prepare a written treatment plan for a patient prior to the provision of physiotherapy treatment. The unlicensed individual shall follow and provide only the treatment defined in the written plan.

(a) The permitted activities of unlicensed individuals are as follows:

~~(a1) Unlicensed individuals may take the history of a patient. However, this activity is separate from the consultation which at all times must be conducted by the licensed doctor. The licensed doctor of chiropractic must confirm the history with the patient and determine all appropriate evaluations, imaging, examinations and referrals.~~

~~(b2) Unlicensed individuals may conduct standard neurological, orthopedic, physical and chiropractic examinations at the direction of the licensed doctor of chiropractic, except they may not perform such examinations which require diagnostic or analytic interpretations nor may they. Unlicensed individuals may not render a conclusion either verbally or in writing to a patient regarding the patient's physical condition. As an example, unlicensed individuals may not perform evaluations of heart or lung soundings. Such individuals shall be at all times under the immediate and direct supervision of a licensed Ddoctor of Cchiropractic.~~

~~“Immediate and dDirect supervision” means the licensed Ddoctor of Cchiropractic shall be at all times on the premises present in the same chiropractic facility where the examinations are being conducted. The licensed Ddoctor of Cchiropractic shall be responsible for the verification of the recorded findings and will be solely responsible for rendering a conclusion based on the findings.~~

~~(e3) Unlicensed individuals may administer physical physiotherapy treatments as an adjunct to chiropractic adjustment, provided the physical physiotherapy treatment is conducted under the adequate indirect supervision of a licensed Ddoctor of Cchiropractic.~~

~~Adequate “Indirect supervision” means shall include all of the following:~~

~~(1) The licensed doctor of chiropractic shall be present in the same chiropractic facility with the unlicensed individual at least fifty percent of any work week or portion thereof the said individual is on duty unless this requirement has been waived by the board. The licensed doctor of chiropractic shall be readily available to the said individual at all other times for advice, assistance and instruction.~~

~~(2) The doctor shall initially examine and prepare a written treatment program for a patient prior to the providing of physical therapy treatment by the unlicensed individual.~~

~~(3) The doctor shall provide periodic reevaluation of the treatment program and of the individual's performance in relation to the patient. "Periodic reevaluation" shall mean at least once every thirty days the patient is under active care.~~

~~(4) The doctor shall perform and record an evaluation of the patient and his or her response to treatment at the termination thereof.~~

~~(d4) The licensed doctor of chiropractic is responsible for evaluating a radiographic image before any markings are added that obstruct portions of a body part. The licensed doctor of chiropractic may refer the evaluation of radiographic images to a radiologist. Following the licensed doctor of chiropractic's review of the radiograph, the~~ Unlicensed individuals may mark X-ray films administered generated by a licensed Doctor of Chiropractic. "Marking X-rays" is defined as drawing and measuring between reference points and making angular and linear measurements. Unlicensed individuals are not permitted to make any diagnostic conclusions or chiropractic analytical listings, and ~~the licensed doctor of chiropractic is responsible for any pathological entities covered or obstructed by the markings.~~

~~(e)~~ Unlicensed individuals may not: administer

~~(1) Generate X-rays unless they hold a valid X-ray technician certificate from the issued by the Department of Public Health Services, Radiologic Health Branch, or participate under the direct supervision of a licensed Doctor of Chiropractic in a as part of a training program approved by that department and set forth in Section 25668.1 of the California Health and Safety Code. This prohibition, set forth in Section 30403 of Title 17 of the California Administrative Code includes the following activities:~~

~~(1A)~~ Positioning of patient;

~~(2B)~~ Setting up of X-ray machines;

~~(3C)~~ Pushing a button to generate a radiographic beam;

~~(4D)~~ Developing of films. However, the Department of Public Health Services, Radiologic Health Branch has determined that unlicensed individuals may develop X-ray film if that is their sole radiologic responsibility.

(2) Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment. All preceptors must be under the direct supervision of a licensed doctor of chiropractic.

(c) Unlicensed individuals who exceed the permitted scope of practice set forth in this regulation shall be in violation of Section 15 of the Chiropractic Initiative Act and shall be prohibited from applying for a California chiropractic license for such time as may be determined by the board. Student doctors participating in board approved preceptorship programs are not to be considered “unlicensed individuals” when working in said program.

(d) A violation of this section shall constitute unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Section 1000-4(b), of the Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Section 1000-15, of the Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 25668.1, California Health and Safety Code; Section 30403 of Title 17, California Administrative Code.

§314. Law Violators.

It shall be the duty of every licensee to notify the Executive Officer or his or her designee of any violation of the act and statutes governing the practice of chiropractic, or these rules and regulations, in order that the board may take disciplinary action.

Note: Authority cited: Sections 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii). Reference: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923 p. 1xxxviii).

§317.2. Gag Clauses in Civil Agreements Prohibited.

(a) A licensee shall not include or permit to be included any of the following provisions in an agreement to settle a civil dispute arising from his or her practice, whether the agreement is made before or after the filing of an action:

____ (1) A provision that prohibits another party to the dispute from contacting or cooperating with the board.

____ (2) A provision that prohibits another party to the dispute from filing a complaint with the board.

____ (3) A provision that requires another party to the dispute to attempt to withdraw a complaint he or she has filed with the board.

(b) A violation of this section constitutes unprofessional conduct and may subject the licensee to disciplinary action.

NOTE: Authority cited: Sections 1000-4(b), and 1000-10 (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 475, Business and Professions Code. Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) and Section 475, Business and Professions Code.

§317.3. Licensee Reporting Requirements.

(a) A licensee shall report any of the following to the board:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor.

(3) Any disciplinary action, as defined in section 304.

(b) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the arrest, the conviction, or the disciplinary action.

(c) Failure to make a report required by this section shall constitute unprofessional conduct.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)). Reference: Section 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

§321.1. Physical or Mental Examination of Applicants.

(a) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to perform as a chiropractor safely because the applicant's ability to perform may be impaired due to mental illness or physical illness affecting competency, the board may order the applicant to be examined by one or more physicians and surgeons, chiropractors, or psychologists designated by the board. The board shall pay the full cost of such examination.

(b) An applicant's failure to comply with an order issued under subdivision (a) shall render his or her application incomplete.

(c) The report of the evaluation shall be made available to the applicant.

(d) If after receiving the evaluation report the Board determines that the applicant is unable to safely practice, the Board may deny the application.

NOTE: Authority cited: Sections 1000-4(b) and 1000-4(e), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

Reference: Section 1000-4(b), Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

384.1 Petitions for Reinstatement, Reduction of Penalty, or Early Termination of Probation

(a) In petitioning for Reinstatement under Section 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California, Stats. 1923, p. 1xxxviii) or Reduction of Penalty which would include Early Termination of Probation under Government Code section 11522, the petitioner has the burden of demonstrating any rehabilitative or corrective measures he or she has taken since the revocation or disciplinary action and, that he or she has the necessary and current qualifications and skills to safely engage in the practice of chiropractic within the scope of current law, and accepted standards of practice.

(b) In reaching its determination the Board may consider various factors including the following:

(1) The original violation(s) for which action was taken against the petitioner's license including:

(A) The type, severity, number, and length of violations.

(B) Whether the violation involved intentional, negligent or other unprofessional conduct.

(C). Actual or potential harm to the public, patients, or others.

(D) The length of time since the violation(s) was committed.

(2) Prior disciplinary and criminal actions also taken against the petitioner by the Board, any State, local or Federal agency or court including:

(A) The petitioner's compliance with all terms of probation, parole, previous discipline or other lawfully imposed sanctions including any order of restitution.

(B) Whether the petitioner is currently on or has been terminated from probation or other lawfully imposed sanction.

(C) The petitioner's legal and regulatory history to and since the violation(s).

(3) The petitioner's attitude toward his or her commission of the original violation(s) and his or her attitude in regard to compliance with legal sanctions and rehabilitative efforts.

(4) The petitioner's documented rehabilitative efforts including:

(A) Efforts to maintain and/or upgrade professional skills and knowledge through continuing education or other methods.

(B) Efforts to establish safeguards to prevent repetition of the original violation(s) including changes or modifications in policies, structure, systems, or methods of behavior applicable to the petitioner's chiropractic practice.

(C) Service to community or charitable groups.

(D) Voluntary restitution to those affected by the original violation(s).

(E) Use of appropriate professional medical or psychotherapeutic treatment.

(F) Participation in appropriate self-help and/or rehabilitation groups.

(G) Use of appropriate peer review mechanisms.

(H) Participation in professional chiropractic organizations or associations.

(5) Assessment of the petitioner's rehabilitative and corrective efforts including:

(A) Whether the efforts relate to the original violation(s).

(B) The date rehabilitative efforts were initiated.

(C) The length, time, and expense associated with rehabilitative efforts or corrective actions.

(D) The assessment and recommendations of qualified professionals directly involved in the petitioner's rehabilitative efforts or acting at the request of the Board, including their description of the petitioner's progress and their prognosis of the petitioner's current ability to practice chiropractic.

(E) The petitioner's reputation for truth, professional ability and good character since the commission of the original violation(s).

(F) The nature and status of ongoing and continuing rehabilitation efforts.

(c) In addition, the Board may consider other appropriate and relevant matters not listed in the above guidelines.

(d) All statements to be introduced at hearing must be made in person or pursuant to Government Code Section 11514 (evidence by affidavit). All other statements not made in person or pursuant to Government Code Section 11514 must be under oath and will be considered only as administrative hearsay.

(e) A petition for reinstatement shall be submitted on an application form (Form # 09PRRL – Revised 12/2012) prescribed and provided by the board, and titled "Petition for Reinstatement of Revoked License," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(f) A petition for early termination of probation shall be submitted on an application form (Form # 09PTP – Revised 12/2012) prescribed and provided by the board, and titled "Petition for Early Termination of Probation," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(g) A petition for reduction of penalty shall be submitted on an application form (Form # 09PRP – Revised 12/2012) prescribed and provided by the board, and titled "Petition for Reduction of Penalty," accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento.

(h) A petitioner pursuant to Section 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)) whose license has been revoked or cancelled may not petition the board for reinstatement until two (2) years has elapsed since the effective date of the decision revoking the license or the date the license was cancelled.

NOTE: Authority cited: Sections 1000-4(b) 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)); Section 1003 Business and Professions Code; and Sections 11514 and 11522 Government Code.
Reference: Sections 1000-4(b) and 1000-10(c) Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

§390.7. Sexual Contact With Patient.

Except as otherwise provided, any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c)(3) of Section 729 of the Business and Professions Code, shall contain an order of revocation. A proposed decision shall not contain a stay of the revocation.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).
Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

§390.8. Required Actions Against Registered Sex Offenders.

(a) Except as otherwise provided, with regard to an individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, under military law, under federal law, or by a foreign government, or any other jurisdiction or province thereof, the board shall be subject to the following requirements:

(1) The board shall deny an application by the individual for licensure in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the individual is licensed under Chiropractic Initiative Act, the board shall promptly revoke the license of the individual in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The board shall not stay the revocation nor place the license on probation.

(3) The board shall not reinstate or reissue the individual's license. The board shall not issue a stay of license denial nor place the license on probation.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that requires his or her registration as a sex offender, provided, however, that nothing in this paragraph shall prohibit the Board from exercising its discretion to deny or discipline a license under any other provision of state law.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code. However, nothing in this paragraph shall prohibit the healing arts board from exercising its discretion to deny or discipline a license under any other provision of state law based upon the licensee's conviction under Section 314 of the Penal Code.

(3) Any administrative adjudication proceeding under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that is fully adjudicated prior to [insert effective date]. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition against reinstating a license to an individual who is required to register as a sex offender shall be applicable.

NOTE: Authority cited: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).

Reference: Sections 1000-4(b) and 1000-10, Business and Professions Code (Chiropractic Initiative Act of California (Stats. 1923, p. 1xxxviii)).